

Tuesday, May 6, 2003

The Board met at the San Diego County Administration Building at 1600 Pacific Highway, Room 310, San Diego, at 9:00 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard absent, the Board made the following orders:

Anne Mette Schiebel and James L. Gossett, 154899, 156675, 168096, 168463

6-16-99 to 12-31-99, \$616.00 Tax

6-16-99 to 12-31-99, \$616.00 Claim for Refund

1-1-00 to 12-31-00, \$727.00 Tax

1-1-00 to 12-31-00, \$727.00 Claim for Refund

Action: Redetermine as recommended by the Appeals Division.

M. Ghacham Enterprises, Inc., 211941

December 3, 2002 Notice of Seizure and Forfeiture

Action: Determined the staff properly seized the cigarettes.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *Wendy K. Mascorro, 143533.*

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard absent, the Board made the following orders:

Joseph E. Barton, 166521

1982, \$66.83 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Arthur Cavanaugh, 188662

1993, \$704.87 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Laura Hass, 173223

1982, \$524.21 Claim for Refund

1987, \$914.89 Claim for Refund

1988, \$1,432.13 Claim for Refund

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1989, \$2,472.75 Claim for Refund
1990, \$59,916.49 Claim for Refund
1991, \$3,224.91 Claim for Refund
1992, \$2,072.42 Claim for Refund
Action: Sustain the action with concession by the Franchise Tax Board.

Philip Lederer, 169584
2000, \$1.00 or more Claim for Refund
Action: Modify the action of the Franchise Tax Board.

Christine O. Leush, 187150
1998, \$1,630.19 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Fabiola Martinez (Eales), 186292
1999, \$620.73 Assessment
Action: Sustain the action of the Franchise Tax Board.

Wendy K. Mascorro, 143533
1991, \$1,352.00 Tax, \$673.00 Penalty
1992, \$121.00 Tax, \$130.25 Penalty
1994, \$270.00 Tax, \$167.50 Penalty
Action: The Board deferred consideration of this matter.

Jose M. Olazabal, 194515
1999, \$2,004.45 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Elizabeth L. Rogers, 171392
1996, \$882.36 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Carole K. Lawing, 144670
1987, \$6,233.49 Assessment
Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard absent, the Board made the following orders:

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R. Edmund, 172907

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Christina Garcia, 173807

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Ebonishia L. Glenn, 190056

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Rosemary Ann Gonsalves, 172915

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Maria Gonzalez, 183606

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Doris Hill, 183604

2000, \$594.13 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Maria Magdalena Ollague, 194162

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Gloria Sandoval, 183384

1999, \$600.00 Claim for Credit

Action: Modified the action of the Franchise Tax Board.

Rondi Stavig, 185523

2000, \$1.00 or more Claim for Credit

Action: Reverse the action of the Franchise Tax Board.

Minas Dermendjian, 186837

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Ricardo M. Marin, 192242

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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SALES AND USE TAX MATTERS, REDETERMINATIONS, CONSENT

With respect to the Sales and Use Tax Matters, Redeterminations, Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard absent, the Board made the following orders:

Ward Hornblower Proescher, 164645

10-1-98, \$155,925.00

Action: Approve the redetermination as recommended by staff.

Dean R. Walsh, 153380

4-12-99, \$112,375.00

Action: Approve the redetermination as recommended by staff.

Ward Hornblower Proescher, 191843

7-1-99, \$153,140.63

Action: Approve the redetermination as recommended by staff.

Suzy Amis, 184456

2-3-00, \$59,770.43

Action: Approve the redetermination as recommended by staff.

Coinmach Corporation, 157320

7-1-97 to 6-30-00, \$51,245.71

Action: Approve the redetermination as recommended by staff.

Norcraft Companies, LLC, 191044

1-1-99 to 12-31-01, \$64,517.04

Action: Approve the redetermination as recommended by staff.

Rodel, Inc., 16832

1-1-93 to 12-31-97, \$408,492.36

Action: Approve the redetermination as recommended by staff.

ADMINISTRATIVE SESSION**DISCUSSION OF BUDGET REDUCTION PLANS AS REQUESTED BY THE DEPARTMENT OF FINANCE**

James Speed, Executive Director, made introductory remarks regarding the Budget Reduction Plan as requested by the Department of Finance (Exhibit 5.1).

Speakers: Marcus Frishman, Chief Deputy to Board Member Parrish

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Mr. Frishman provided the Board with a memo from Mr. Parrish regarding personnel matters as requested by Governor Gray Davis for a 10 percent budget reduction. (Exhibit 5.2)

Ms. Migden moved to adopt the Budget Reduction Plan as recommended by the Executive Director. The motion was seconded by Ms. Mandel but failed to carry. Ms. Migden and Ms. Mandel voting yes, Mr. Parrish and Mr. Chiang voting no, Mr. Leonard absent. The Board deferred consideration to later in the day.

Exhibits to these minutes are incorporated by reference.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Andres Munoz, 181463

1999, \$725.00 Assessment

For Appellant:

Andres Munoz

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant is entitled to claim head of household filing status.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard absent, the Board submitted the appeal for decision.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARING

Abigail V. Christy, 172532

1999, \$1.00 or more Claim for Credit

For Claimant:

Abigail V. Christy

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether respondent properly denied appellant's claim for property tax assistance.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

James Allen Love, 166542

1999, \$1,071.00 Assessment

For Appellant:

James Allen Love

Joanna Love

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant qualified for head of household filing status for 1999.

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Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Joseph Keleman, 183230

1988, \$218.25 Failure to File Penalty, \$43.65 Negligence Penalty

1989, \$153.00 Failure to File Penalty, \$30.60 Negligence Penalty

1990, \$252.00 Failure to File Penalty

For Appellant: Joseph Keleman

For Franchise Tax Board: Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has shown reasonable cause warranting abatement of the failure to file upon notice and demand penalties imposed for 1988 through 1990.

Whether respondent properly imposed collection and lien fees for 1988 through 1990.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 5.3)

Respondent's Exhibit: Summary of Tax Year 1988-90 (Exhibit 5.4)

Action: Mr. Parrish moved to reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

John J. and Angela O'Brien, 173481

1999, \$23,312.57 Claim for Refund

For Appellant: John J. O'Brien

For Franchise Tax Board: Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant has shown respondent may, and should, abate appellants' 1999 income tax liability.

Whether appellant establishes reasonable cause for abatement of the late payment penalty.

Whether respondent abused its discretion in refusing to abate interest.

Appellant's Exhibit: Letter and Miscellaneous Documents (Exhibit 5.5)

Respondent's Exhibit: Summary of Tax Year 1999 (Exhibit 5.6)

Action: Mr. Parrish moved to delete the penalties in the appeal. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board submitted the appeal for decision.

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William D. Tyler, 172934

1996, \$759.79 Claim for Refund

For Appellant:

William D. Tyler

For Franchise Tax Board:

Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant's claim for refund is barred by the applicable statute of limitations.

Whether respondent is equitably estopped from relying on the statute of limitations, or whether the statute of limitations should be equitably tolled.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 5.7)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board submitted the appeal for decision.

John Robert Murray, 173815

1998, \$34.00 Late Filing Penalty

For Appellant:

John Robert Murray

For Franchise Tax Board:

Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated reasonable cause to abate the late filing penalty.

Whether respondent abused its discretion in refusing to abate interest.

Appellant's Exhibit: Statement of Facts (Exhibit 5.8)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board submitted the appeal for decision.

SALES AND USE TAX APPEALS HEARINGS

San Diego Data Processing Corporation, 113636

7-1-97 to 6-30-00, \$234,456.30 Tax

For Petitioner:

Mark Schieble, Special Counsel

Joyce Russell, Chief Financial Officer

Larry Marshall, General Counsel

Paul Edmonson, Deputy City Attorney

For Sales and Use Tax Department:

Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether an administration fee which petitioner charged in conjunction with the transfer of tangible personal property to the City of San Diego (the city) was part of petitioner's taxable gross receipts under Revenue and Taxation Code section 6012, because petitioner was a retailer, rather than agent to the city.

Action: Mr. Parrish moved to grant the petition. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon motion of Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

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ADMINISTRATIVE SESSION**DISCUSSION OF BUDGET REDUCTION PLANS AS REQUESTED BY THE DEPARTMENT OF FINANCE**

James Speed, Executive Director, summarized earlier remarks made regarding the Budget Reduction Plan as requested by the Department of Finance.

Upon motion of Ms. Migden, seconded by Mr. Westly and duly carried, Ms. Migden, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish and Mr. Chiang voting no, the Board approved the Executive Director's Budget Reduction Plan.

Upon motion of Mr. Leonard, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Westly voting yes, Mr. Chiang voting no, the Board directed budget staff to explore the recommendations made by Mr. Parrish and others as possible cuts in operating expenses to avoid further reductions and salary savings.

PROPOSED CONTRACTS OVER \$1 MILLION

Dade Powers, Chief, Administrative Support Division, reported that the items before the Board are proposed contracts that require Board Member approval prior to being established (Exhibit 5.9).

Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board approved the contract for the Department of General Services, Department of Motor Vehicles, and Department of Toxic Substances Control.

Speakers: Perry Kenny, CSEA, President
Ed J. Mireles, CSEA, Bargaining Manager

Mr. Kenny provided to the Board a proposal with regards to the unarmed security guard services for the Headquarters building (Exhibit 5.10).

Upon motion of Mr. Westly, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered to stay with the status quo regarding the Inter-Con Security contract.

The Board directed staff to work with CSEA on the particulars of converting at the earliest opportunity, the security positions to State employees, and that such conversion shall result in a reduction from the current cost of security contract.

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FINAL ACTION ON CLAIM HEARD MAY 6, 2003

Upon motion of Ms. Migden, seconded by Mr. Westly and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, in the appeal of *Abigail V. Christy, 172532*, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON APPEALS HEARD MAY 6, 2003

Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, in the appeal of *William D. Tyler, 172934*, the Board sustained the action of the Franchise Tax Board.

Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, in the appeal of *James Allen Love, 166542*, the Board sustained the action of the Franchise Tax Board.

Upon motion of Mr. Chiang, seconded by Mr. Westly and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, in the appeal of *Andres Munoz, 181463*, the Board sustained the action of the Franchise Tax Board.

Mr. Parrish moved in the appeal of *Joseph Keleman, 183230*, to reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon motion of Ms. Migden, seconded by Mr. Chiang and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, the Board sustained the action of the Franchise Tax Board.

Upon motion of Mr. Chiang, seconded by Mr. Westly and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, in the appeal of *John J. and Angela O'Brien, 173481*, the Board sustained the action of the Franchise Tax Board.

Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish abstaining, in the appeal of *John Robert Murray, 173815*, the Board sustained the action of the Franchise Tax Board.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

A.J. Scott, 106770

1998, \$1,787.00 Tax, \$453.75 Notice and Demand Penalty, \$446.75 Late Filing Penalty

For Appellant:

Waived Appearance

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has met his burden to prove error in the proposed assessment.

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Whether notice and demand and late filing penalties were properly imposed and if so, whether appellant has shown reasonable cause for any relief.

Whether respondent properly imposed a filing enforcement fee.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$1,000 frivolous appeal penalty.

FINAL ACTION ON PETITION HEARD MAY 6, 2003

Mr. Parrish moved that the petition of *San Diego Data Processing Corporation, 113636*, be granted. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon motion of Mr. Chiang, seconded by Ms. Migden and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be denied and redetermined as recommended by the Appeals Division.

SALES AND USE TAX APPEALS HEARING

Apollo Fisheries Services, Inc., 130654

10-1-95 to 12-31-98, \$646,148.54 Tax, \$67,990.28 Negligence Penalty

For Petitioner: No Appearance

For Sales and Use Tax Department: Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether Department's determination of the measure of tax, which was based on petitioner's own recorded taxable sales, is inaccurate.

Whether certain labor that petitioner performed prior to the sale of new vessels (watercraft), labeled as "outfitting labor" and entailing the installation of optional equipment, rigging, and prepping the new vessels for the customers, was nontaxable installation labor.

Whether petitioner has provided sufficient documentation to show that disallowed claimed sales for resale were actually sales for resale.

Whether petitioner has provided sufficient documentation to support that certain sales were made in interstate or foreign commerce and are, therefore, not subject to tax.

Whether petitioner has properly supported certain sales claimed as exempt sales of watercraft for use in commercial deep-sea fishing, by timely taking a watercraft exemption certificate or by otherwise establishing that these sales satisfy the requirements of the exemption.

Whether the facts presented warrant abatement of the 10-percent negligence penalty imposed by the Department.

Action: Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish abstaining, the Board ordered that the petition be denied and redetermined as recommended by the Appeals Division.

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SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

The Board deferred consideration of the following matter: Spirent Communications, Inc., 207962.

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Mr. Chiang not participating in *Pacific Gas & Electric Company, 214313*; *Atlantic Richfield Company, 187561*; and, *Pacific Life Insurance Company, 213205*, the Board made the following orders:

Copper Mountain Networks, Inc., 214053

10-1-98 to 6-30-01, \$200,684.05

Action: Approve the credit and cancellation as recommended by staff.

Pacific Gas & Electric Company, 214313

10-1-98 to 9-30-99, \$75,404.86

Action: Approve the credit and cancellation as recommended by staff. Mr. Chiang not participating.

Kent-Moore Corporation, 173373

7-1-97 to 6-30-99, \$3,558,687.15

Action: Approve the credit and cancellation as recommended by staff.

Priority Call Management, 202323

4-1-02 to 6-30-02, \$339,691.30

Action: Approve the credit and cancellation as recommended by staff.

Priority Call Management, 202327

1-1-02 to 3-31-02, \$361,699.66

Action: Approve the credit and cancellation as recommended by staff.

Mike's Mobile Windshield, Inc., 214690

1-1-02 to 3-31-02, \$74,400.00

Action: Approve the credit and cancellation as recommended by staff.

Mike's Mobile Windshield, Inc., 214697

4-1-02 to 5-31-02, \$51,194.66

Action: Approve the credit and cancellation as recommended by staff.

Atlantic Richfield Company, 187561

1-1-99 to 12-31-01, \$909,870.07

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.

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Hitachi Seiki U.S.A., Inc., 193080

10-1-01 to 12-31-01, \$108,264.14

Action: Approve the refund as recommended by staff.

Hussmann Refrigeration Company, 169408

12-16-99 to 12-15-01, \$104,264.90

Action: Approve the refund as recommended by staff.

Monarch Litho, Inc., 213680

10-1-99 to 12-31-02, \$103,969.40

Action: Approve the refund as recommended by staff.

BAE Systems Aircraft Controls, Inc., 112510

4-1-99 to 3-31-02, \$93,747.44

Action: Approve the refund as recommended by staff.

Cell Genesys, Inc., 212908

10-1-98 to 6-30-02, \$270,164.54

Action: Approve the refund as recommended by staff.

Air Liquide America Corporation, 146163

4-1-00 to 3-31-02, \$118,657.63

Action: Approve the refund as recommended by staff.

RY Consulting, Inc., 145748

10-1-98 to 12-31-00, \$1,216,831.85

Action: Approve the refund as recommended by staff.

The Copley Press, Inc., 149864

7-1-00 to 12-31-00, \$64,961.62

Action: Approve the refund as recommended by staff.

Mailing Concepts, Inc., 174620

4-1-99 to 12-31-00, \$89,653.53

Action: Approve the refund as recommended by staff.

Maxim Integrated Products, Inc., 192511

1-1-02 to 3-31-02, \$62,327.42

Action: Approve the refund as recommended by staff.

Yakima Products, Inc., 213109

7-1-99 to 6-30-02, \$69,665.55

Action: Approve the refund as recommended by staff.

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Hunt & Sons, Inc., 192514

10-1-01 to 12-31-01, \$92,564.12

Action: Approve the refund as recommended by staff.

SNK America, Inc., 132017

4-1-00 to 6-30-00, \$54,013.55

Action: Approve the refund as recommended by staff.

Camico Mutual Insurance Company, 174304

1-1-99 to 12-31-01, \$56,639.16

Action: Approve the refund as recommended by staff.

Unitrin Direct Insurance, 193752

4-1-00 to 6-30-02, \$103,386.13

Action: Approve the refund as recommended by staff.

Pacific Life Insurance Company, 213205

4-1-99 to 3-31-02, \$90,787.33

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.

Motivepower, Inc., 142883

7-1-98 to 6-30-01, \$888,238.47

Action: Approve the refund as recommended by staff.

Syndicate Systems, Inc., 160291

7-1-01 to 9-30-01, \$58,638.85

Action: Approve the refund as recommended by staff.

Bank of Stockton, 132301

4-1-98 to 6-30-01, \$161,657.79

Action: Approve the refund as recommended by staff.

BTE Equipment LLC, 183491

4-1-99 to 9-30-01, \$3,267,153.97

Action: Approve the refund as recommended by staff.

Spirent Communications, Inc., 207962

1-1-01 to 9-30-01, \$92,651.87

Action: The Board deferred consideration of this matter.

Moore Business Forms, Inc., 87567

10-1-98 to 12-31-99, \$177,395.34

Action: Approve the refund as recommended by staff.

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Specialty Minerals, Inc., 214559

4-1-97 to 3-31-01, \$58,746.24

Action: Approve the refund as recommended by staff.

Mather Civilian Federal Credit Union, 129949

4-1-98 to 6-30-01, \$200,631.43

Action: Approve the refund as recommended by staff.

Valley Credit Union, 168731

1-1-99 to 6-30-02, \$83,039.32

Action: Approve the refund as recommended by staff.

Pacific Material Handling Solutions, Inc., 211724

4-1-99 to 3-31-02, \$179,962.48

Action: Approve the refund as recommended by staff.

SAP America, Inc., 213495

1-1-94 to 12-31-97, \$781,299.89

Action: Approve the refund as recommended by staff.

Quest Diagnostics Clinical Labs, 115060

1-1-98 to 12-31-98, \$184,997.29

Action: Approve the refund as recommended by staff.

D R Stockwell & Company, Inc., 212253

10-1-02 to 12-31-02, \$57,022.60

Action: Approve the refund as recommended by staff.

Westlake Services, Inc., 207812

7-1-02 to 9-30-02, \$301,815.54

Action: Approve the refund as recommended by staff.

MEMBER COMMENT

Mr. Leonard stated for the record that he would have voted with the majority in the Legal Appeals Matters; Franchise and Income Tax Matters; Homeowner and Renter Property Tax Assistance Matters; and, Sales and Use Taxes Matters.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 11:20 a.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly present.

CLOSED SESSION

The Board met to discuss personnel matters (Govt. Code § 11126 (a)).

Tuesday, May 6, 2003

The Board recessed at 11:40 a.m. and reconvened immediately in open session with Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

Mr. Speed announced the appointment of Timothy Boyer as the interim Executive Director.

SALES AND USE TAX APPEALS HEARING

Ana Maria Jimenez, 93965

1-1-97 to 4-30-00, \$60,619.65 Tax

For Petitioner:

No Appearance

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner has provided sufficient credible evidence to show that her deliveries of vehicles to purchasers from Mexico were exempt export sales, without the purchasers, or their agent, taking delivery of the vehicles in California prior to an irrevocable commitment of the vehicles into the process of exportation.

Action: Upon motion of Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the Department 30 days to review additional documents and provide its recommendation to the Board.

MEMBER COMMENT

On behalf of the Board, Ms. Migden extended its sincere and grateful appreciation to Mr. Speed for his dedicated service to the State Board of Equalization and the State of California.

The Board adjourned at 11:45 a.m.
in honor of Mr. Speed's 32 years of service.

The foregoing minutes are adopted by the Board on March 23, 2004.